

REMARKS / DISCUSSION OF ISSUES

I. Introductory Remarks

In response to the Office Action dated July 23, 2008 (the "Office Action"), Applicant respectfully requests reconsideration. All of the issues raised in the Office Action¹ have been carefully considered and are addressed herein. The application as presented is believed to be in allowable condition.

Prior to entry of this Amendment, claims 1, 4-14, and 16-20, of which claims 1 and 7 are independent, were pending and under consideration on the merits. In the Office Action the allowability of the claims was withdrawn; and the claims were rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta (U.S. Patent No. 6,724,159 B2) ("Gutta") in view of Loughrey (U.S. Patent No. 6,960,892 B2) ("Loughrey").

II. Amendments to the Specification and Claims

In this Amendment, the following actions are taken:

- the Specification was amended to correct an obvious grammatical error;
- claim 9 and claim 20 have been cancelled without prejudice;
- claim 8 has been cancelled and its subject matter incorporated into claim 7;
- new claims 21 - 29 have been added and claims 1, 4-7, 10-14, and 19 are amended herein to remove antecedent basis informalities and to improve readability thereof, as well as to more particularly define Applicant's contribution to the art.

No new matter has been added, support for the claims amendments and the new claims being found in the Specification and the claims as filed, as follows:

- Support for certain of the amendments in claims 1 and 7 may be found in original claims 2 and 8.²

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

² In making the various references to the specification and drawings set forth herein, it is to be understood that Applicants are in no way intending to limit the scope of the claims to the exemplary embodiments shown in the drawings and described in the specification. Rather, Applicants expressly affirm that they are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation and applicable case law.

- Support for the other amendments in claims 1 and 7 and for new claims 21, 24, 25, 27 and 28 may be found at page 8, lines 11-18 (paragraph [0033] in Publication 2006/0071605 A1):

The activity can be deduced from an explicit message that is being received via ethernet connection 408 from a connected appliance. For example, a PC can supply a message indicating the application that a person is using, or a coffee machine can supply a message indicating that the coffee machine is being used by the person. Other activities can for example be: reading, listening to radio, sleeping, talking on the telephone, watching a movie, talking, etc. The computer readable code 418 is designed to determine the intensity with which the activity is being performed. The intensity can for example be deduced from the number of keystrokes a person uses to provide input to a PC.

- Support for new claims 22 and 26 may be found in original claim 3.
- Support for new claim 23 may be found at page 8, lines 8 - 10 (paragraph [0033] in Publication 2006/0071605 A1): "The location can further be deduced from pressure sensors that are located within the area or by other appliances that are known in the art like a IR sensor or a proximity sensor."
- Support for new claims 29 and 30 may be found at page 6, line 25 to page 7, line 2 (paragraph [0030] in Publication 2006/0071605 A1):

Some moments later, Jana enters the room and positions herself at the table opposite of Pete. . . . The microphone 216 detects the sound of their voices. . . . The noise analyzing software module gives a signal to the light controlling module that there is noise detected in the room. Upon receipt of this signal, the light controlling module decreases the intensity of the halogen lamps again. Meanwhile the video analyzing module has analyzed that an other person is sitting opposite of the first person and transfers this information to the light controlling module. The information can comprise the coordinates of the two persons as absolute coordinates within the room or as relative to the halogen lights. Upon receipt of this information, the light cone is widened again to include both Pete and Jana into the light focus.

III. Claim Rejections under 35 U.S.C. §103

Applicant respectfully traverses the rejections of claims 1, 4-14, and 16-20 under 35 U.S.C. §103(a), to the extent they are maintained over these claims, as amended, because, for each of the claims, a prima facie case of obviousness has not been established.

Specifically, in rejecting claims 1, 4-14, and 16-20 under 35 U.S.C. 103(a) as being unpatentable over Gutta in view of Loughrey, the Office Action asserted, on page 3, that :

It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the light fixture of Gutta with the time and date-based control device(s) as taught by Loughrey to control the power of the light source for illuminating an area.

Applicant respectfully disagrees because both of these references fail to teach or suggest each and every element of the claims, as amended. In addition, no additional evidence has been raised establishing a tenable rationale why one of ordinary skill would have been motivated to modify the references so as to arrive at the claimed invention. In particular, neither Gutta nor Loughrey teaches or suggests:

an activity detector for detecting a kind of activity performed by the at least one person and the intensity of the activity based on a connection to an appliance, wherein the connection is configured to provide information about the kind of activity and the intensity of the activity. . . .

recited in claim 1 (emphasis added).

Gutta focuses on controlling lighting based on behavior. However, Gutta does not teach or suggest detecting based on a connection to an appliance and Loughrey fails to cure these deficiencies of Gutta. For at least this reason, a prima facie case of obviousness with respect to claim 1 has not been established and, therefore, the rejection of claim 1 under 35 U.S.C. §103 as being obvious from Gutta in view of Loughrey is improper and should be withdrawn. For at least the reasons stated above with respect to claim 1, the rejection of claims 4 – 6 and 10 – 14, which depend directly from claim 1 and therefore include all the elements and limitations thereof, is also improper and should be withdrawn. Further, the new claims 21 – 25, which also depend directly from claim 1, are allowable for at least the reasons stated above with respect to claim 1.

Although of different scope, independent claim 7 recites similar features and thus also is allowable for at least the same reasons as claim 1. For at least the reasons stated above with respect to claim 1, the rejection of claims 16–19, which depend directly or indirectly from claim 7, is also improper and should be withdrawn. Further, the new claims 26–28, which also depend directly from claim 7, are allowable for at least the reasons stated above with respect to claim 1.

IV. New Claim 29

New claim 29 is believed to be allowable since neither Gutta nor Loughrey teaches or suggests the elements recited therein. Specifically, new claim 29 recites:

a location detector for detecting a first position of a first person within an area and a second position of a second person within the area;

an activity detector for detecting a kind of activity performed by the first person within the area; and

a lighting controller for controlling the light source in response to the first position, the second position, and the kind of activity.

In the Office Action, in the rejection of claim 14, which recites similar features about a second person, Gutta Figs. 1 and 2 and various Gutta elements (audio/video capture devices 150, lighting devices 160, user profile(s) 200, and user IDs 250) were cited as disclosing “detect[ing] a position of at least a second person . . . and . . . control[ling] the light source . . . in response to the positions of the at least one first person and the at least second person.” See Office Action at 5. However, neither Gutta Figs. 1 or 2 nor Gutta elsewhere discloses the claimed elements recited above, namely “control[ling] a light source in response to the first position, the second position, and the kind of activity.” (emphasis added.) Referring to Gutta Fig. 2, user profiles 200 define an action 270 based on a rule criteria 260 for a user 250. There is no disclosure in Gutta Fig. 2 or elsewhere in Gutta of a single “action 270” that is in response to the positions of two users. Gutta at col. 3, lines 24–36 describes Fig. 2 actions 270:

For example, the user habits recorded in record 205 for the user, John Smith, indicates that the user generally turns on the light after checking the mail and sitting in a certain chair. Likewise, the user habits recorded in record 206 for the user, Jane Smith, indicates that the user likes to read the newspaper while on the couch. Finally, the exemplary user habits recorded in record 208 for all users indicates that most users would like to have a light on when they sit in a certain seat with their feet up. The corresponding action item associated with each rule typically activates a light with an appropriate intensity and/or direction (variable intensity and position) or otherwise adjusts the intensity, direction or other settings of a lighting device.

Assuming arguendo that Gutta discloses “detect[ing] a position of at least a second person . . . and . . . control[ling] the light source . . . in response to the positions of the at least one first person and the at least second person”, the actions 270 described in Gutta and shown in Fig. 2 are all discrete actions, based on the rules criteria 260 for discrete users 250. Records 205 and 206 are not described anywhere in Gutta as being anything but discrete. Gutta has no disclosure of, for example, a rule criterion 260 of record 206 (for Jane) impacting the action 270 of record 205 (for John). Gutta has no disclosure of a record having a rule criterion or an action derived from the activities of two persons (for example, Jane and John). For that matter, there is no disclosure in Gutta of how to handle the conflicts between actions 270 of separate records that could arise when implementing a lighting control system responsive to two or more persons, or how to handle inadvertent impact of one person on the rules criteria of another person. For example, in Gutta, when Jane reads the newspaper on the sofa, in accordance with action 270 of record 206, she receives a light until snoring is heard. However, if John is the person who falls asleep in the easy chair, Jane still needs her light. In accordance with action 270 of record 206, though, Jane’s light turn off. Neither in Gutta Fig. 1 nor Gutta Fig. 2, nor in Gutta at col. 3, nor elsewhere in Gutta is there disclosed an action which is based on the positions and activities of more than one person. Loughrey, which also contains no disclosures of interactions between persons, does not make up for the deficiency in Gutta.

New claim 29, which recites “a lighting controller for controlling the light source in response to the first position, the second position, and the kind of activity” is thus allowable over Gutta and Loughrey, alone or in combination.

V. General Comments on Rejections of Dependent Claims

Since each of the dependent claims depends from a base claim that is believed to be in condition for allowance, Applicant believes that it is unnecessary at this time to argue the allowability of each of the dependent claims individually. Applicant does not, however, necessarily concur with the interpretation of any dependent claim as set forth in the Office Action, nor does Applicant concur that the basis for the rejection of any dependent claim is proper. Therefore, Applicant reserves the right to specifically address the patentability of the dependent claims in the future, if deemed necessary.

CONCLUSION

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment set forth in the Office Action does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Furthermore, nothing in this paper should be construed as intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify any concession of unpatentability of the claim prior to its amendment. In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' representative at the telephone number indicated below to discuss any outstanding issues relating to the allowability of the application. If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, please charge any deficiency to Deposit Account No. 14/1270, under Docket No. NL-021199.

Respectfully submitted,

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